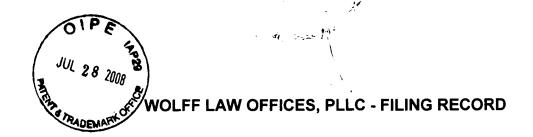
1FW/AF



Attorney Docket No.:

Legare-PAUS0003

Today's Date:

July 28, 2008

Attorney:

Kevin A. Wolff

Fee Transmitted Herewith:

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Serial No.:

10/657,189

Filing Date:

September 9, 2003

Title:

CONTROL METHODS FOR IMPROVED CATALYTIC

CONVERTER EFFICIENCY AND DIAGNOSIS

Inventors:

Joseph E. Legare

VIA HAND DELIVERY

THE USPTO STAMP HEREON ACKNOWLEDGES RECEIPT OF:

DOCUMENTS BEING FILED:

- (1) Transmittal Form
- (2) Reinstatement of Appeal from the Examiner (2 Sheets)
- (3) Notice of Appeal from the Examiner (1 Sheet)
- (4) Appeal Brief (47 Sheets)

PTO/SB/21 (09-04) Approved for use through 07/31/2006. OMB 0651-0031 U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE llection of information unless it displays a valid OMB control number. 1995, no persons are required to respond to a c Application Number 10/657,189 TRANSMITTAL Filing Date September 9, 2003 First Named Inventor **FORM** Joseph E. Legare Art Unit 3748 Examiner Name Diem T. Tran (to be used for all correspondence after initial filing) Attorney Docket Number Legare-PAUS0003 Total Number of Pages in This Submission **ENCLOSURES** (Check all that apply) After Allowance Communication to TC Drawing(s) Fee Transmittal Form Appeal Communication to Board Licensing-related Papers Fee Attached of Appeals and Interferences Appeal Communication to TC Petition (Appeal Notice, Brief, Reply Brief) Amendment/Reply Petition to Convert to a Proprietary Information After Final **Provisional Application** Power of Attorney, Revocation Status Letter Affidavits/declaration(s) Change of Correspondence Address Other Enclosure(s) (please Identify Terminal Disclaimer **Extension of Time Request** below): Filing Record; Reinstatement of Appeal Request for Refund **Express Abandonment Request** CD, Number of CD(s) Information Disclosure Statement Landscape Table on CD **Certified Copy of Priority** Remarks Document(s) Reply to Missing Parts/ Incomplete Application Reply to Missing Parts under 37 CFR 1.52 or 1.53 SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT Firm Name Wolff Law Offices, PLLC Signature /Kevin Alan Wolff/ Printed name Kevin Alan Wolff Date Reg. No. July 28, 2008 42.233 CERTIFICATE OF TRANSMISSION/MAILING I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

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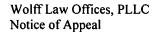
Kevin Alan Wolff

Kevin Alan Wolff

Date

July 28, 2008

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

e: Application of Joseph E. Legare

Filing Date: September 9, 2003

Serial Number: 10/657,189

Group Art Unit: 3748

For:

JUL 28 2008

CONTROL METHODS FOR IMPROVED

Examiner: Diem T. Tran

CATALYTIC CONVERTER EFFICIENCY

AND DIAGNOSIS

REINSTATEMENT OF APPEAL FROM THE EXAMINER TO THE BOARD OF PATENT APPEALS AND INTERFERENCES

Commissioner of Patents P.O. Box 1450 Alexandria, VA 22313-1450

Sir/Madame:

This is a Request for Reinstatement of Appeal from the Non-Final Office Action mailed July 1, 2008 rejecting claims 1-9, 11-16, 18-20, 24-33, 36, 38-40, 43-46, 50, and 51, in view of the Applicant's Appeal Brief filed on January 22, 2008. The original Notice of Appeal was filed on September 17, 2007. The present Appeal is a reinstatement of the Appeal from the Final Office Action mailed May 17, 2007 rejecting claims 1-9, 11-16, 18-20, 24-33, 36, 38-40, 42-46, 50, and 51. The original Notice of Appeal from the May 17, 2007 Final Office Action was filed on September 17, 2007 and the corresponding Appeal Brief was filed on January 22, 2008. Therefore, pursuant to MPEP § 1204.01, the previously paid fees set forth in 37 C.F.R. § 41.20 for filing a Notice of Appeal and filing an Appeal Brief associated with the original appeal are to be applied to this new appeal.

Applicant notes for the record that the Examiner has reopened prosecution on this application merely to note claim 42 had been "overlooked by the examiner" in the May 17, 2007 Final Office Action from which the original appeal was taken. (See Non-Final Office Action page 10). Applicant respectfully submits that this action was improper. The Applicant can not find any provision that enables the Examiner to reopen prosecution simply to note that one more claim overlooked, and not addressed with a rejection, is allowable. Pursuant to MPEP § 1207.04,

Wolff Law Offices, PLLC Notice of Appeal

an Examiner may "reopen prosecution to enter a new ground for rejection after appellant's brief has been filed." Although the Non-Final Office Action recites the existence of "new ground(s) of rejection," (See Non-Final Office Action pages 9-10), the Examiner fails to provide nothing more than the same old grounds for rejection including claim 42 in the list of allowed claims, and noted at the end of the Office Action that claim 42 was overlooked. This is inconsistent with MPEP § 1207.04. All of the Examiner's "new" grounds for rejection in the Non-Final Office Action appear to be identical, verbatim, to the grounds for rejection found in the May 17, 2007 Final Office Action. The Examiner could have waived any grounds for rejecting claim 42 (although none were provided in the May 17, 2007 Final Office Action) in the Examiner's Answer, thus indicating claim 42 contains allowable material. However the Examiner reopened prosecution of the application, forcing the Applicant to waste time, money, and resources in analyzing the new Office Action and responding repeatedly to identical grounds for rejection. The Examiner should be more considerate of the Applicant's time and the need to timely and efficiently answer the Applicant' Appeal. Therefore, Applicant fully expects to receive a Patent Term Adjustment with full credit from the time the prosecution of this application was unwarrantedly reopened until the reinstatement of this Appeal pursuant to 37 C.F.R. § 1.704(b)(4), given that the application should have remained in Appeal during these approximately three weeks.

Pursuant to MPEP § 1204.01, a new Notice of Appeal in compliance with 37 C.F.R. § 41.31 and a complete new Appeal Brief in compliance with 37 C.F.R. § 41.37 have been submitted herewith this Reinstatement of Appeal.

Respectfully submitted,

Kevin Alan Wolff

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Telephone: 919-933-9684 FAX: 919-933-9685 Date: July 28, 2008